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7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10 JOSHUA GARCIA, SERA GARCIA,
 11 RAYMOND SANDOVAL, KELLY
 12 SMITH, AND JENNIFER WILSON,
 13 individually, and on behalf of other
 14 members of the general public similarly
 situated, and as aggrieved employees
 pursuant to the Private Attorneys General
 Act ("PAGA"),

15 Plaintiff,

16 vs.

17 HMS HOST, USA, INC., a Delaware
 18 corporation; and DOES 1 through 100,
 inclusive,

19 Defendants.

Case No.: 17-cv-03069-RS

**SECOND AMENDED CLASS ACTION
 COMPLAINT & ENFORCEMENT
 UNDER THE PRIVATE ATTORNEYS
 GENERAL ACT, CALIFORNIA LABOR
 CODE §§ 2698 ET SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (3) Violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 206 (Unpaid Minimum Wages and Overtime);
- (4) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (5) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of IWC Wage Order § 5 (Reporting Time Pay)
- (8) Violation of Labor Code § 2802 (failure to indemnify for business expenses)
- (9) Violation of Labor Code § 226 (failure to furnish itemized wage statements)
- (10) Violation of Labor Code § 226; IWC Wage Order No. 5-2001 (failure to maintain required business records)
- (11) Violation of Labor Code §§ 2698, et seq. ("PAGA"); and

1 (12) Violation of California Business &
2 Professions Code §§ 17200, *et seq.*

3

4 **Jury Trial Demanded**

5

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1 Plaintiffs, individually and on behalf of all other members of the public similarly
2 situated, allege as follows:

3 **JURISDICTION AND VENUE**

4 1. This class action is brought pursuant to Federal Rules of Civil Procedure Rule
5 23 and as a collective action pursuant to 29 U.S.C. § 216(b) for claims under the Fair Labor
6 Standards Act ("FLSA"). The monetary damages and restitution sought by Plaintiff exceed
7 the minimal jurisdiction limits of the Superior Court and will be established according to
8 proof at trial.

9 2. This Court has jurisdiction over this action pursuant to the California
10 Constitution, Article VI, section 10. The statutes under which this action is brought do not
11 specify any other basis for jurisdiction.

12 3. This Court has jurisdiction over all Defendants because, upon information and
13 belief, Defendants are either citizens of California, have sufficient minimum contacts in
14 California, or otherwise intentionally avail themselves of the California market so as to render
15 the exercise of jurisdiction over them by the California courts consistent with traditional
16 notions of fair play and substantial justice.

17 4. Venue is proper in this Court because Defendants transact business in this
18 county and the acts and omissions alleged herein took place in this county.

19 5. California Labor Code sections 2699 et seq., PAGA, authorizes aggrieved
20 employees to sue directly for various civil penalties under the California Labor Code.

21 6. Plaintiffs timely provided notice on February 13, 2017 to the California Labor
22 and Workforce Development Agency ("LWDA") and to Defendants, pursuant to California
23 Labor Code section 2699.3.

24 **THE PARTIES**

25 7. Plaintiffs are residents of California.

26 8. Defendant HMS HOST, USA, INC. ("HMS") was and is, upon information and
27 belief, a Delaware corporation and, at all times hereinafter mentioned, an employer whose
28 employees are engaged throughout this county, the State of California, or the various states of

1 the United States of America.

2 9. Plaintiffs are unaware of the true names or capacities of the Defendants sued
3 herein under the fictitious names DOES 1 through 100 but will seek leave of this Court to
4 amend the complaint and serve such fictitiously named Defendants once their names and
5 capacities become known.

6 10. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through
7 100 are the partners, agents, owners, shareholders, managers or employees of HMS at all
8 relevant times.

9 11. Plaintiffs are informed and believe, and thereon alleges, that each and all of the
10 acts and omissions alleged herein were performed by, or are attributable to, HMS, and/or
11 DOES 1 through 100 (collectively "Defendants"), each acting as the agent, employee, alter
12 ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and
13 was acting within the course and scope of such agency, employment, joint venture, or
14 concerted activity with legal authority to act on the others' behalf. The acts of any and all
15 Defendants represent and were in accordance with Defendants' official policy.

16 12. At all relevant times, Defendants, and each of them, ratified each and every act
17 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
18 and abetted the acts and omissions of each and all the other Defendants in proximately causing
19 the damages herein alleged.

20 13. Plaintiffs are informed and believe, and thereon allege, that each of said
21 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
22 omissions, occurrences, and transactions alleged herein.

23 CLASS ACTION ALLEGATIONS

24 14. Plaintiff brings this action on their own behalf, as well as on behalf of each and
25 all other persons similarly situated, and thus, seeks class certification under California Code of
26 Civil Procedure section 382.

27 15. All claims alleged herein arise under California law for which Plaintiff seeks
28 relief authorized by California law.

16. Plaintiff's proposed class consist of two sub-classes and are defined as follows:

2 **Sub-Class 1:**

3 All individuals who worked for Defendants all non-exempt
4 employees of Defendants in California at any time from April
25, 2013 until the date of certification.

5 **Sub-Class 2:**

6 All individuals who are currently employed or were formerly
7 employed by Defendants in California and to whom Defendants
furnished at least one wage statement in relation to a pay period
8 in which the individual was paid overtime and the overtime
hourly rate and/or amount of regular hours worked are shown
9 incorrectly, from February 6, 2016 through the date until the date
of certification.

10 17. Members of the Class will hereinafter be referred to as "class members."

11 18. Plaintiffs reserve the right to redefine the Class and to add additional subclasses
12 as appropriate based on further investigation, discovery, and specific theories of liability.

13 19. There are common questions of law and fact as to the class members that
14 predominate over questions affecting only individual members, including, but not limited to:

- 15 (a) Whether Defendants required Plaintiffs and class members to
16 work off-the-clock without payment;
- 17 (b) Whether Defendants required Plaintiffs and class members to
18 work over eight (8) hours per day, over twelve (12) hours per day,
19 and/or over forty (40) hours per week and failed to pay legally
20 required overtime compensation to Plaintiffs and class members;
- 21 (c) Whether Defendants failed to pay at least minimum wages for all
22 hours worked by Plaintiffs and class members;
- 23 (d) Whether Defendants deprived Plaintiffs and class members of
24 meal periods or required Plaintiffs and class members to work during
25 meal periods without compensation;
- 26 (e) Whether Defendants deprived Plaintiffs and class members of
27 rest periods or required Plaintiffs and class members to work during

1 rest periods without compensation;

2 (f) Whether Defendants failed to timely pay wages due to Plaintiffs
3 and class members during their employment, including meal and rest
4 period premium wages;

5 (g) Whether Defendants failed to timely pay wages due to class
6 members upon their discharge, including meal and rest period
7 premium wages;

8 (h) Whether Defendants' failure to pay wages, without abatement or
9 reduction, in accordance with the California Labor Code, was willful
10 or reckless;

11 (i) Whether Defendants failed to pay sufficient wages when
12 Plaintiffs and Class Members reported to work as scheduled or
13 instructed, but were sent home without being put to work or furnished
14 less than half of the usual or scheduled day's work;

15 (j) Whether Defendants failed to reimburse class members for
16 business expenses;

17 (k) Whether Defendants engaged in unfair business practices in
18 violation of California Business & Professions Code sections 17200,
19 *et seq.*; and

20 (l) The appropriate amount of damages, restitution, or monetary
21 penalties resulting from Defendants' violations of California law.

22 20. There is a well-defined community of interest in the litigation and the class is
23 readily ascertainable:

24 (a) Numerosity: The members of the class are so numerous that joinder of
25 all members would be unfeasible and impractical. The membership of
26 the entire class is unknown to Plaintiffs at this time; however, the class
27 is estimated to be over forty and the identity of such membership is
28 readily ascertainable by inspection of Defendants' employment records.

1 (b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately
2 protect the interests of each class member with whom he has a well-
3 defined community of interest, and Plaintiffs' claims (or defenses, if
4 any) are typical of all Class Members' as demonstrated herein.

5 (c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately
6 protect the interests of each class member with whom he has a well-
7 defined community of interest and typicality of claims, as demonstrated
8 herein. Plaintiffs acknowledge that they have an obligation to make
9 known to the Court any relationship, conflicts or differences with any
10 class member. Plaintiffs' attorneys, the proposed class counsel, are
11 versed in the rules governing class action discovery, certification, and
12 settlement. Plaintiffs have incurred, and throughout the duration of this
13 action, will continue to incur costs and attorneys' fees that have been,
14 are and will be necessarily expended for the prosecution of this action
15 for the substantial benefit of each class member.

16 (d) Superiority: The nature of this action makes the use of class action
17 adjudication superior to other methods. A class action will achieve
18 economies of time, effort, and expense as compared with separate
19 lawsuits, and will avoid inconsistent outcomes because the same issues
20 can be adjudicated in the same manner and at the same time for the
21 entire class.

22 (e) Public Policy Considerations: Employers in the State of California
23 violate employment and labor laws every day. Current employees are
24 often afraid to assert their rights out of fear of direct or indirect
25 retaliation. Former employees are fearful of bringing actions because
26 they believe their former employers might damage their future
27 endeavors through negative references and/or other means. Class
28 actions provide the class members who are not named in the complaint

1 with a type of anonymity that allows for the vindication of their rights at
 2 the same time as their privacy is protected.

3 **GENERAL ALLEGATIONS**

4 21. Defendants provide staffing and maintain the operations of numerous retail and
 5 food service locations in various airports throughout the State of California.

6 22. Defendants employed Plaintiffs as non-exempt, hourly-paid employees from
 7 approximately 2014 through the present.

8 23. Defendants continue to employ non-exempt, hourly-paid employees at multiple
 9 locations throughout California.

10 24. Plaintiffs are informed and believe, and thereon allege, that at all times herein
 11 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
 12 and advisors knowledgeable about California labor and wage law, employment and personnel
 13 practices, and about the requirements of California law.

14 25. Plaintiffs are informed and believe, and thereon allege, that employees were not
 15 paid for all hours worked because all hours worked were not recorded.

16 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
 17 should have known that Plaintiffs and class members were entitled to receive certain wages
 18 for overtime compensation, including retroactive wage payments, and that they were not
 19 receiving certain wages for overtime compensation.

20 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
 21 should have known that Plaintiffs and class members were entitled to receive at least
 22 minimum wages for compensation, including retroactive minimum wage payments, and that,
 23 in violation of the California Labor Code, they were not receiving at least minimum wages for
 24 work done off-the-clock.

25 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
 26 should have known that Plaintiffs and other class members were entitled to receive all meal
 27 periods or payment of one (1) additional hour of pay at Plaintiffs and other class members'
 28 regular rate of pay when they did not receive a timely, uninterrupted meal period, and that

1 they did not receive all meal periods or payment of one (1) additional hour of pay at Plaintiffs
 2 and other class members' regular rate of pay when they did not receive a timely, uninterrupted
 3 meal period.

4 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
 5 should have known that Plaintiff and other class members were entitled to receive all rest
 6 periods or payment of one (1) additional hour of pay at Plaintiffs' and other class members'
 7 regular rate of pay when a rest period was missed, and that they did not receive all rest periods
 8 or payment of one (1) additional hour of pay at Plaintiffs' and other class members' regular
 9 rate of pay when a rest period was missed.

10 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
 11 should have known that Plaintiffs and other class members were entitled to timely payment of
 12 wages during their employment. In violation of the California Labor Code, Plaintiffs and
 13 other class members did not receive payment of all wages, including, but not limited to meal
 14 and rest period premium wages, within permissible time periods.

15 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
 16 should have known that terminated class members were entitled to timely payment of wages
 17 upon termination. In violation of the California Labor Code, terminated class members did
 18 not receive payment of all wages, including, but not limited to meal and rest period premium
 19 wages, within permissible time periods.

20 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
 21 should have known that Plaintiffs and Class Members were entitled to receive at least two (2),
 22 but no more than four (4) hours, of reporting time pay at the employee's regular rate of pay
 23 when an employee is required to report for work, but is not put to work or is furnished less
 24 than half of their usual or scheduled day's work.

25 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
 26 should have known that Plaintiffs and Class Members were entitled to receive reimbursement
 27 for incurred business expenses.

28 34. Plaintiffs are informed and believe, and thereon allege, that at all times herein

1 mentioned, Defendants knew or should have known that they had a duty to compensate
 2 Plaintiffs and other members of the class, and that Defendants had the financial ability to pay
 3 such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
 4 represented to Plaintiffs and other class members that they were properly denied wages, all in
 5 order to increase Defendants' profits.

6 35. At all times herein set forth, PAGA was applicable to Plaintiffs' employment
 7 by Defendants.

8 36. At all times herein set forth, PAGA provides that any provision of law under
 9 the California Labor Code that provides for a civil penalty to be assessed and collected by the
 10 LWDA for violations of the California Labor Code may, as an alternative, be recovered
 11 through a civil action brought by an aggrieved employee on behalf of herself and other current
 12 or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

13 37. Pursuant to PAGA, a civil action under PAGA may be brought by an
 14 "aggrieved employee," who is any person that was employed by the alleged violator and
 15 against whom one or more of the alleged violations was committed.

16 38. Plaintiffs were employed by Defendants and the alleged violations were
 17 committed against him during his time of employment and he is, therefore, an aggrieved
 18 employee. Plaintiffs and other employees are "aggrieved employees" as defined by California
 19 Labor Code section 2699(c) in that they are all current or former employees of Defendants,
 20 and one or more of the alleged violations were committed against them.

21 39. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
 22 employee, including Plaintiffs, may pursue a civil action arising under PAGA after the
 23 following requirements have been met:

24 (a) The aggrieved employee shall give written notice by certified
 25 mail (hereinafter "Employee's Notice") to the LWDA and the
 26 employer of the specific provisions of the California Labor Code
 27 alleged to have been violated, including the facts and theories to
 28 support the alleged violations.

1 (b) The LWDA shall provide notice (hereinafter “LWDA Notice”)
 2 to the employer and the aggrieved employee by certified mail that it
 3 does not intend to investigate the alleged violation within sixty (60)
 4 calendar days of the postmark date of the Employee’s Notice. Upon
 5 receipt of the LWDA Notice, or if the LWDA Notice is not provided
 6 within sixty-five (65) calendar days of the postmark date of the
 7 Employee’s Notice, the aggrieved employee may commence a civil
 8 action pursuant to California Labor Code section 2699 to recover
 9 civil penalties in addition to any other penalties to which the
 10 employee may be entitled.

11 40. On February 13, 2017 Plaintiffs provided written notice by certified mail to the
 12 LWDA and to Defendants of the specific provisions of the California Labor Code alleged to
 13 have been violated, including the facts and theories to support the alleged violations, pursuant
 14 to California Labor Code section 2699.3. Defendants have failed to cure any of the alleged
 15 violations.

16 41. Therefore, as April 19, 2017, the administrative prerequisites under California
 17 Labor Code section 2699.3(a) are satisfied and Plaintiffs have authorization to recover civil
 18 penalties and unpaid wages against Defendants, in addition to other remedies, for violations of
 19 California Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 510, 512, 1194,
 20 1197, 1197.1, and 1198.

21 **FIRST CAUSE OF ACTION**

22 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**
 23 **(Against All Defendants)**

24 42. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
 25 and every allegation set forth above.

26 43. California Labor Code section 1198 makes it illegal to employ an employee
 27 under conditions of labor that are prohibited by the applicable wage order. California Labor
 28 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission

1 shall be the . . . standard conditions of labor for employees. The employment of any employee
2 . . . under conditions of labor prohibited by the order is unlawful.”

3 44. California Labor Code section 1198 and the applicable Industrial Welfare
4 Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without
5 compensating them at a rate of pay either time-and-one-half or two-times that person’s regular
6 rate of pay, depending on the number of hours worked by the person on a daily or weekly
7 basis.

8 45. Specifically, the applicable IWC Wage Order provides that Defendants are and
9 were required to pay Plaintiff and class members employed by Defendants, and working more
10 than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-
11 and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40)
12 hours in a workweek.

13 46. The applicable IWC Wage Order further provides that Defendants are and were
14 required to pay Plaintiffs and class members employed by Defendants, and working more than
15 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate
16 of pay.

17 47. California Labor Code section 510 codifies the right to overtime compensation
18 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
19 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
20 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
21 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
22 of work.

23 48. During the relevant time period, Plaintiffs and class members worked in excess
24 of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty
25 (40) hours in a week without receiving overtime compensation therefor. For one example,
26 during the relevant time period, Defendants had a policy and/or practice of required its
27 employees who have already commenced their work day at one retail or restaurant operation
28 to clock-out, travel to another location within the airport complex and then clock back in and

continue work at this second location. The time spent traveling from one work location to another is spent off-the-clock, and HMS did not compensate employees for the time they spent performing this work. Additionally, Defendants employed a time keeping system which further systematically deprived employees of compensation for all time worked. Because Plaintiffs and class members worked shifts of eight (8) hours a day and/or forty (40) hours in a week, some of this uncompensated work time qualified for overtime premium.

49. Defendants' failure to pay Plaintiffs and class members the unpaid balance of overtime compensation, including retroactive overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

50. Pursuant to California Labor Code section 1194, Plaintiffs and class members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

**Violation of California Labor Code §§ 1194, 1197, 1197.1—Unpaid Minimum Wages
(Against All Defendants)**

51. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

52. At all relevant times, California Labor Code sections 1194, 1197 and 1197.1 provide that the minimum wage for employees fixed by the Industrial Welfare Commission is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. As set forth above, Defendants regularly required Plaintiffs and class members to work off-the-clock without compensation. Defendants did not pay at least minimum wages for all of these off-the-clock hours. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, Defendants did not pay minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1194, 1197, and 1197.1.

53. Defendants' failure to pay Plaintiffs and class members the minimum wage as

required, including retroactive minimum wage compensation, violates California Labor Code sections 1194, 1197 and 1197.1. Pursuant to those sections, Plaintiffs and class members are entitled to recover the unpaid balance of their minimum wage compensation, as well as interest, costs, and attorney's fees.

54. Pursuant to California Labor Code section 1194.2, Plaintiffs and class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

THIRD CAUSE OF ACTION

**Violations of the Fair Labor Standards Act 29 U.S.C. § 206 (Unpaid Minimum Wages
and Overtime);**

55. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

56. At all relevant times herein set forth, each Defendant has been, and continues to be, an "employer" engaged in interstate "commerce" within the meaning of the FLSA, 29 U.S.C. § 203. At all relevant times, Defendants have employed all members of the proposed class as "employees" within the meaning of the FLSA. At all relevant times, each Defendant has had gross operating revenues in excess of \$500,000.

57. At all relevant times herein set forth, Plaintiffs and the other members of the class worked off-the-clock hours which included overtime hours in excess of forty (40) hours in a workweek, and Defendants willfully failed to pay them minimum wages and/or overtime compensation at the legally mandated rate.

58. At all relevant times herein set forth, Defendants willfully, regularly and repeatedly failed to make, keep, and preserve accurate records required by the FLSA with respect to Plaintiffs and the other class members, including records sufficient to accurately determine the wages and hours of employment pertaining to Plaintiffs and the other class members.

59. Pursuant to 29 U.S.C. §§ 206, 207(a), and 216(b), Plaintiffs and the other

1 members of the class are entitled to damages in the amount of their respective unpaid wages,
 2 including unpaid minimum wage; unpaid overtime compensation; and liquidated damages as
 3 provided by the FLSA, attorneys' fees and costs of action, injunctive relief requiring
 4 Defendants to cease and desist from their violations of the FLSA described herein and to
 5 comply with the FLSA, and such other legal and equitable relief as the Court deems just and
 6 proper.

7 **FOURTH CAUSE OF ACTION**

8 **Violations of California Labor Code §§ 226.7 and 512(a)—Unpaid Meal Period**

9 **Premiums**

10 **(Against All Defendants)**

11 60. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
 12 and every allegation set forth above.

13 61. At all relevant times herein set forth, the applicable California Industrial
 14 Welfare Commission (IWC) Wage Order(s) and California Labor Code sections 226.7 and
 15 512(a) were applicable to Plaintiffs' and the other class members' employment by Defendants
 16 and each of them.

17 62. At all relevant times herein set forth, California Labor Code section 226.7
 18 provides that no employer shall require an employee to work during any meal period
 19 mandated by an applicable order of the California Industrial Welfare Commission (IWC).

20 63. At all relevant times herein set forth, California Labor Code section 512(a)
 21 provides that an employer may not require, cause, or permit an employee to work for a period
 22 of more than five (5) hours per day without providing the employee with a meal period of not
 23 less than thirty (30) minutes, except that if the total work period per day of the employee is
 24 not more than six (6) hours, the meal period may be waived by mutual consent of both the
 25 employer and the employee.

26 64. During the relevant time period, Plaintiffs and other class members scheduled
 27 to work for a period of time no longer than six (6) hours, and who did not waive their legally
 28 mandated meal periods by mutual consent, were required to work for periods longer than five

1 (5) hours without a meal period of not less than thirty (30) minutes.

2 65. During the relevant time period, Defendants willfully required Plaintiffs and
 3 other class members to work during meal periods and failed to compensate them for work
 4 performed during meal periods. For example, Defendants had a policy and/or practice of
 5 required its employees who have already commenced their work day at one retail or restaurant
 6 operation to clock-out, travel to another location within the airport complex and then clock
 7 back in and continue work at this second location. These activities often occurred during these
 8 employees' unpaid meal breaks. Defendants additionally had a policy and/or practice of
 9 failing to staff their non-exempt positions adequately and failed to properly coordinate
 10 employee schedules such that Plaintiffs and other class members were relieved of all duties
 11 and permitted to take compliant meal breaks. Instead, Plaintiffs and other class members were
 12 required to work through meal periods, cut their meal periods short, suffer interruptions
 13 during meal periods, and/or take meal periods after the fifth hour of work because of
 14 Defendants' practices. Defendants then failed to pay Plaintiffs and other class members all
 15 meal period premiums due pursuant to California Labor Code section 226.7.

16 66. Defendants' conduct violates applicable Industrial Welfare Commission (IWC)
 17 Wage Order(s), and California Labor Code sections 226.7 and 512(a).

18 67. Pursuant to the applicable Industrial Welfare Commission (IWC) Wage
 19 Order(s) and California Labor Code section 226.7(b), Plaintiffs and other class members are
 20 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
 21 hourly rate of compensation for each work day that the meal period was not provided.

22 **FIFTH CAUSE OF ACTION**

23 **Violation of California Labor Code § 226.7—Unpaid Rest Period Premiums**
 24 **(Against All Defendants)**

25 68. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
 26 and every allegation set forth above.

27 69. At all relevant times herein set forth, the applicable IWC Wage Order and
 28 California Labor Code section 226.7 were applicable to Plaintiffs' and class members'

1 employment by Defendants.

2 70. At all relevant times, California Labor Code section 226.7 provides that no
 3 employer shall require an employee to work during any rest period mandated by an applicable
 4 order of the California IWC.

5 71. At all relevant times, the applicable IWC Wage Order provides that “[e]very
 6 employer shall authorize and permit all employees to take rest periods, which insofar as
 7 practicable shall be in the middle of each work period” and that the “rest period time shall be
 8 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
 9 hours or major fraction thereof” unless the total daily work time is less than three and one-half
 10 (3½) hours.

11 72. During the relevant time period, Defendants required Plaintiffs and class
 12 members to work four (4) or more hours without authorizing or permitting a ten (10) minute
 13 rest period per each four (4) hour period worked. As with meal periods, Defendants failure to
 14 properly staff and coordinate employees’ schedules lead to their being unable to take
 15 compliant rest breaks, even where they had knowledge about their rest break rights.
 16 Defendants then failed to pay Plaintiffs and class members the full rest period premium due
 17 pursuant to California Labor Code section 226.7. As a result, Defendants failed to pay
 18 Plaintiff and other class members rest period premiums in violation of California Labor Code
 19 section 226.7.

20 73. During the relevant time period, Defendants failed to pay Plaintiffs and class
 21 members the full rest period premium due pursuant to California Labor Code section 226.7.

22 74. Defendants’ conduct violates the applicable IWC Wage Orders and California
 23 Labor Code section 226.7.

24 75. Pursuant to the applicable IWC Wage Order and California Labor Code section
 25 226.7(b), Plaintiffs and class members are entitled to recover from Defendants one (1)
 26 additional hour of pay at the employee’s regular hourly rate of compensation for each work
 27 day that the rest period was not provided.

SIXTH CAUSE OF ACTION

**Violation of California Labor Code §§ 201 and 202 – Wages Not Timely Paid Upon
Termination
(Against All Defendants)**

76. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

77. This cause of action is wholly derivative of and dependent upon the unpaid wage claims set forth for unpaid overtime wages, unpaid minimum wages, and unpaid meal and rest period premium wages, which remained unpaid upon termination of class members' employment.

78. At all times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

79. During the relevant time period, Defendants willfully failed to pay class members who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

80. Defendants' failure to pay those class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

81. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee

shall continue as a penalty from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

82. Class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SEVENTH CAUSE OF ACTION

Violation of California IWC Wage Order § 5 (Reporting Time Pay)

(Against All Defendants)

83. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

84. Section 5 of the applicable IWC Wage Order mandates that "[e]ach workday that an employee is required to report to the work site and does report, but is not put to work or is furnished less than half of his/her usual or scheduled day's work, the employer shall pay him/her for half of the usual or scheduled day's work but in no event for less than two (2) nor more than four (4) hours at the employee's regular rate of pay...."

85. Defendants maintained a policy and practice of not paying reporting time pay in whole or in part when Plaintiffs and Class Members reported to work as scheduled, but were sent home for various reasons.

86. By their failure to provide reporting time pay, Defendants violated the provisions of the applicable section of the IWC Wage Order.

87. Plaintiff and Class Members are entitled to recover the unpaid balance of their reporting time wages, as well as interest, costs, and attorneys' fees.

EIGHTH CAUSE OF ACTION

**Violation of California Labor Code § 2802, et seq.
(Against All Defendants)**

88. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

89. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her

1 employee for all necessary expenditures or losses incurred by the employee in direct
 2 consequence of the discharge of his or her duties."

3 90. In order to discharge their duties for Defendants, Plaintiffs and Class Members
 4 have incurred reasonable and necessary expenses in the course of completing their job duties,
 5 including but not limited to cell phone use, uniforms, and other employment-related expenses,
 6 which were not reimbursed by Defendants.

7 91. Plaintiffs and Class Members are entitled to reimbursement for these necessary
 8 expenditures, plus interest and attorneys' fees and costs, under Labor Code§ 2802 and other
 9 statutory and civil penalties under applicable law.

10 **NINTH CAUSE OF ACTION**

11 **Violation of California Labor Code § 226**
 12 **(Against All Defendants)**

13 92. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
 14 and every allegation set forth above.

15 93. Pursuant to Labor Code § 226(a), every employer shall furnish each of its non-
 16 exempt employees an accurate itemized statement in writing accurately showing, amongst
 17 other things, the overtime hourly rate and amount of regular hours worked.

18 94. Defendants intentionally and willfully failed to furnish accurate itemized wage
 19 statements to Plaintiffs and the members of the Class in violation of Labor Code § 226(a).

20 95. Labor Code § 226(e) provides for statutory penalties for a knowing and
 21 intentional failure by an employer to comply with Labor Code § 226(a). Plaintiffs and the
 22 members of the Class seek to recover these statutory penalties.

23 96. As a result of Defendants' conduct, Plaintiffs and the members of the Class
 24 have suffered "injury" as that term is defined in Labor Code § 226(e)(2).

25 97. Wherefore, Plaintiffs have been harmed and request relief as hereinafter
 26 provided.

TENTH CAUSE OF ACTION

**Violation of California Labor Code § 226, 1174; IWC Wage Order No. 5-2001 § 7
(Against All Defendants)**

98. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

99. During the relevant period, as part of Defendants' illegal payroll policies and practices to deprive Plaintiffs and other Class Members of all wages earned and due, Defendants knowingly and intentionally failed to maintain records as required under California Labor Code sections 226 and 1174 and IWC Wage Order No. 5-2001, section 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods, time records showing when each employee begins and ends each work period; and accurate itemized wage statements.

100. Wherefore, Plaintiffs have been harmed and request relief as hereinafter provided.

ELEVENTH CAUSE OF ACTION

Violation of California Labor Code §§ 2698, *et seq.*

(Against All Defendants)

101. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

102. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5.

103. PAGA provides as follows, “[n]otwithstanding any other provision of law, a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising under this part at any time within 60 days of the time periods specified in this part.”

104. Defendants' conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

a. Violation of Labor Code sections 510 and 1198 for Defendants' failure to

1 compensate Plaintiffs and other aggrieved employees for all overtime hours
2 at the applicable overtime rate as herein alleged;

3 b. Violation of Labor Code sections 1194, 1197, and 1197.1 for Defendants'
4 failure to compensate Plaintiffs and other aggrieved employees for all hours
5 worked with at least minimum wages as herein alleged;

6 c. Violation of Labor Code Sections 512 and 226.7 for Defendants' failure to
7 provide Plaintiffs and other aggrieved employees with legally mandated
8 meal periods and failing to compensate Plaintiffs and other aggrieved
9 employees with one hours of premium pay for unprovided meal periods as
10 alleged herein;

11 d. Violation of Labor Code Section 226.7 for Defendants' failure to provide
12 Plaintiffs and other aggrieved employees with legally mandated rest periods
13 and failing to compensate Plaintiffs and other aggrieved employees with
14 one hours of premium pay for unprovided rest periods as alleged herein;

15 e. Violation of Labor Code section 226(a) for failure to provide compliant
16 wage statements to Plaintiff and other aggrieved employees, as herein
17 alleged;

18 f. Violation of Labor Code sections 201, 202, and 203 for failure to timely
19 pay all earned wages to aggrieved employees upon discharge as herein
20 alleged;

21 g. Violation of Labor Code section 204 for failure to pay all earned wages
22 owed to Plaintiffs and other aggrieved employees during employment as set
23 forth more fully below;

24 h. Violation of Labor Code section 206.5 for requiring Plaintiffs and
25 aggrieved employees to execute unlawful releases of claims, as defined in
26 that statute, as a condition of receiving their earned wages.

27 i. Violation of Labor Code IWC Wage Order § 5 for failing to pay Plaintiffs
28 and aggrieved employees for reporting time pay; and

j. Violation of Labor Code Section 2802 for failing to reimburse Plaintiffs and aggrieved employees for incurred business expenses.

105. California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

106. California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Defendants failed to pay Plaintiffs and other aggrieved employees all wages due to them, including, but not limited to, minimum wages and reporting time pay within any time period specified by California Labor Code section 204.

107. California Labor Code Section 206.5 prohibits an employer from “require[ing] the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.” The statute identifies such prohibited releases as “include[ing] requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.” In violation of Section 206.5, HMS maintained a policy and practice of requiring Plaintiffs and aggrieved employees to execute an acknowledgment that they actually received timely, uninterrupted breaks and that their hours worked reflected on their time sheets were accurate. If aggrieved employees failed and/or

1 refused to execute the acknowledgment, they were subject to discipline by HMS.

2 108. Defendants, at all times relevant to this complaint, were employers or persons
 3 acting on behalf of an employer(s) who violated Plaintiffs and aggrieved employees' rights by
 4 violating various sections of the California Labor Code as set forth above.

5 109. As set forth above, Defendants have violated numerous provisions of both the
 6 Labor Code sections regulating hours and days of work as well as the applicable order of the
 7 Industrial Welfare Commission and are subject to civil penalties, in addition to those provided
 8 by Labor Code sections 2698 and 2699.

9 110. Pursuant to PAGA, and in particular California Labor Code sections 2699,
 10 2699.3 and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks
 11 assessment and collection of unpaid wages and civil penalties for Plaintiffs, all other
 12 aggrieved employees, and the State of California against Defendants, in addition to other
 13 remedies, for violations of California Labor Code sections 201, 202, 203, 204, 206.5, 226(a),
 14 226.7, 510, 512, 1194, 1197, 1197.1, and 1198.

15 TWELFTH CAUSE OF ACTION

16 Violation of California Business & Professions Code §§ 17200, *et seq.*

17 (Against All Defendants)

18 111. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
 19 and every allegation set forth above.

20 112. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
 21 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiffs seeks to
 22 enforce important rights affecting the public interest within the meaning of Code of Civil
 23 Procedure section 1021.5.

24 113. Defendants' activities, as alleged herein, are violations of California law, and
 25 constitute unlawful business acts and practices in violation of California Business &
 26 Professions Code sections 17200, *et seq.*

27 114. A violation of California Business & Professions Code sections 17200, *et seq.*
 28 may be predicated on the violation of any state or federal law. In the instant case, Defendants'

1 policies and practices have violated state law in at least the following respects:

- 2 (c) Requiring non-exempt employees, including Plaintiffs and class
3 members, to work overtime without paying them proper compensation
4 in violation of California Labor Code sections 510 and 1198 and the
5 applicable Industrial Welfare Commission Order;
- 6 (d) Failing to pay at least minimum wage to Plaintiffs and class members in
7 violation of California Labor Code sections 1194, 1197 and 1197.1 and
8 the applicable Industrial Welfare Commission Order;
- 9 (e) Failing to provide meal and rest periods or to pay premium wages for
10 missed meal and rest periods to Plaintiffs and class members in
11 violation of California Labor Code sections 226.7 and 512 and the
12 applicable Industrial Welfare Commission Order;
- 13 (f) Failing to provide Plaintiffs and class members with accurate wage
14 statements in violation of California Labor Code section 226(a) and the
15 applicable Industrial Welfare Commission Order; and
- 16 (g) Failing to timely pay all earned wages to Plaintiffs and class members in
17 violation of California Labor Code sections 210, 202, 203 and 204 and
18 the applicable Industrial Welfare Commission Order as set forth below.

19 115. Pursuant to California Business & Professions Code sections 17200 *et seq.*,
20 Plaintiffs and class members are entitled to restitution of the wages withheld and retained by
21 Defendants during a period that commences four years prior to the filing of this complaint; a
22 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and
23 class members; an award of attorneys' fees pursuant to California Code of Civil Procedure
24 section 1021.5 and other applicable laws; and an award of costs.

25 **REQUEST FOR JURY TRIAL**

26 Plaintiffs requests a trial by jury.

27 **PRAYER FOR RELIEF**

28 Plaintiffs, on behalf of all others similarly situated, pray for relief and judgment

against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of twenty-five thousand dollars (\$25,000).

Class Certification

2. That this case be certified as a class and collective action;
3. That Plaintiffs be appointed as the representatives of the Class;
4. That counsel for Plaintiffs be appointed as Class Counsel.

As to the First Cause of Action

5. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiffs and class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

9. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197 and 1197.1 by willfully failing to pay minimum wages to Plaintiff and class members:

11. For general unpaid wages and such general and special damages as may be appropriate:

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due:

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to

1 California Labor Code section 1194(a);

2 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

3 15. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Third Cause of Action**

6 16. That the Court declare, adjudge, and decree that Defendants violated 29 U.S.C.
7 §§ 206, 207(a), and 216(b) by failing to pay minimum and overtime wages to Plaintiffs and
8 class members;

9 17. For general unpaid minimum and overtime wages and such general and special
10 damages as may be appropriate;

11 18. For pre-judgment interest on any compensation commencing from the date such
12 amounts were due;

13 19. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
14 29 U.S.C. §§ 206, 207(a), and 216(b); and

15 20. For such other and further relief as the Court may deem equitable and
16 appropriate.

17 **As to the Fourth Cause of Action**

18 21. That the Court declare, adjudge, and decree that Defendants violated California
19 Labor Code sections 226.7 and 512(a) and applicable Industrial Welfare Commission (IWC)
20 Wage Order(s) by willfully failing to provide all meal periods to Plaintiffs and class members;

21 22. That the Court make an award to the Plaintiffs and class members of one (1)
22 hour of pay at each employee's regular rate of compensation for each workday that a meal
23 period was not provided;

24 23. For all actual, consequential, and incidental losses and damages, according to
25 proof;

26 24. For premiums pursuant to California Labor Code section 226.7(b);

27 25. For pre-judgment interest on any unpaid meal period premiums from the date
28 such amounts were due; and

26. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

27. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiffs and class members;

28. That the Court make an award to the Plaintiffs and class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

29. For all actual, consequential, and incidental losses and damages, according to proof;

30. For premiums pursuant to California Labor Code section 226.7(b);

31. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due; and

32. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

33. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all overtime wages, minimum wages, and meal and rest period premium wages owed at the time of termination of the employment of class members no longer employed by Defendants.

34. For all actual, consequential and incidental losses and damages, according to proof;

35. For statutory wage penalties pursuant to California Labor Code section 203 for all class members who have left Defendants' employ;

36. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

37. For such other and further relief as the Court may deem equitable and

1 appropriate.

2 **As to the Seventh Cause of Action**

3 38. That the Court declare, adjudge and decree that Defendants violated the
 4 reporting time provisions of IWC Wage Order section 5 as to Plaintiffs and class members,
 5 and failed to pay earned reporting time pay thereto;

6 39. For all actual, consequential and incidental losses and damages, according to
 7 proof;

8 40. For statutory penalties and injunctive relief as allowed under law; and

9 41. For such other and further relief as the Court may deem equitable and
 10 appropriate.

11 **As to the Eighth Cause of Action**

12 42. That the Court declare that Defendants policies and/or practices violate
 13 California law by failing to reimburse all business expenses incurred by Plaintiffs and class
 14 members in the discharge of their duties as employees of Defendants violates California Labor
 15 Code § 2802;

16 43. For all actual, consequential and incidental losses and damages, according to
 17 proof;

18 44. For an award of damages in the amount of unpaid unreimbursed business
 19 expenses, pursuant to California Labor Code Section 2802, according to proof;

20 45. For statutory and civil penalties and injunctive relief pursuant to California
 21 Labor Code;

22 46. For pre-judgment interest on any unpaid unreimbursed business expenses from
 23 the date such amounts were due; and

24 47. For such other and further relief as the Court may deem equitable and
 25 appropriate.

26 **As to the Ninth Cause of Action**

27 48. That the Court declare, adjudge and decree that Defendants violated the
 28 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage

Orders as to Plaintiffs and class members, and willfully failed to provide accurate itemized wage statements thereto;

49. For all actual, consequential and incidental losses and damages, according to proof;

50. For statutory penalties and injunctive relief pursuant to California Labor Code section 226(e) and (h); and

51. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

52. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code sections 226 and 1174 and IWC Wage Order No. 5-2001, section 7 as to Plaintiffs and class members;

53. For all actual, consequential and incidental losses and damages, according to proof;

54. For statutory penalties and injunctive relief pursuant to California Labor Code section 226; and

55. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eleventh Cause of Action

56. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code sections as to Plaintiffs and/or other Aggrieved Employees: 510 and 1198 (by failing to pay all overtime wages); 1194, 1197, and 1197.1 (by failing to pay at least minimum wages for all hours worked); 226.7 (by failing to provide meal or rest periods or the required compensation in lieu thereof); 226(a) (by failing to provide accurate and complete wage statements); 201, 202, 203 (by failing timely to pay all unpaid wages upon termination); 204 (by failing timely to pay all earned wages during employment); 206.5 (by requiring the execution of unlawful releases); 2802 (failure to indemnify for business

1 expenses; and IWC Wage Order § 5 (Reporting Time Pay)

2 57. For civil penalties pursuant to California Labor Code sections 210, 226.3, 558,
3 1174.5, 1197.1, 2699(a) and/or 2699(f) and (g), for violations of California Labor Code
4 sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 510, 512, 1194, 1197, 1197.1, 1198 and
5 2802 IWC Wage Order § 5;

6 **As to the Twelfth Cause of Action**

7 58. That the Court declare, adjudge and decree that Defendants violated California
8 Business and Professions Code sections 17200, *et seq.* by failing to pay overtime
9 compensation due, failing to pay at least minimum wages for all hours worked, failing to
10 provide meal and rest periods or premium wages in lieu thereof, failing to provide accurate
11 wage statements, and failing timely to pay all earned wages during employment and upon
12 termination;

13 59. For restitution of unpaid wages to Plaintiffs and all class members and
14 prejudgment interest from the day such amounts were due and payable;

15 60. For the appointment of a receiver to receive, manage and distribute any and all
16 funds disgorged from Defendants and determined to have been wrongfully acquired by
17 Defendants as a result of violations of California Business & Professions Code sections 17200
18 *et seq.*;

19 61. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
20 California Code of Civil Procedure section 1021.5; and

21 62. For such other and further relief as the Court may deem equitable and
22 appropriate.

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1 Dated: November 21, 2018

Respectfully submitted,

2 The Bainer Law Firm

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By: /s/ Matthew R. Bainer
5 Matthew R. Bainer, Esq.

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Attorneys for Plaintiffs

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